Canadian International Trade Tribunal

2009-2010

Report on Plans and Priorities

The Honourable James M. Flaherty
Minister of Finance

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CHAIRPERSON'S MESSAGE

I am pleased to present the 2009-2010 Report on Plans and Priorities (RPP) for the Canadian International Trade Tribunal (the Tribunal).

The Tribunal's mandate is to provide the fair, transparent, timely and effective disposition of international trade cases, government procurement reviews and other matters in various areas of the Tribunal's jurisdiction. The Tribunal conducts inquiries into complaints relating to unfair trade (i.e. dumping and subsidizing), requests for protection from rapid increases in imports (safeguards) and complaints regarding federal government procurement. The Tribunal hears appeals from decisions of the Minister of National Revenue and the Canada Border Services Agency (CBSA) under the *Excise Tax Act* and the *Customs Act* respectively. In its advisory role, the Tribunal undertakes general economic inquiries and tariff references for the Minister of Finance or the Governor in Council. In so doing, the Tribunal contributes to Canada's competitiveness and a fair and secure marketplace.

The trade remedies program administered by the Tribunal is designed to protect Canadian businesses and their employees from the injurious effects of unfairly traded imports, in line with Canada's international rights and obligations. Case activity under this program is countercyclical, meaning that cases are up when the economy is down. With the current uncertainty in world financial markets and the depth of the downturn in the world economy, case activity is expected to increase. The Tribunal is monitoring this situation carefully, ensuring that priority is given to its core business, that its processes and procedures are the most efficient possible and that resources are in place to handle the increased activity.

The main priority for the Tribunal for 2009-2010 continues to be to ensure the fair, timely and effective disposition of cases. In 2009-2010, the supporting priority remains that of *continuous improvement*, as the Tribunal targets initiatives under three broad categories: investment in its people, sound management practices and improved service delivery.

In particular, the Tribunal will continue to invest in its people by encouraging learning and skills development on the part of all employees. Sound management practices will be further reinforced through the integration of the Management Accountability Framework into the Tribunal's day-to-day management practices. In addition, it will develop a more integrated system to track all case work and streamline case management and workflow. Through these initiatives, the Tribunal is committed to advancing government priorities by enhancing its services to Canadians, improving its accountability and ensuring the transparency of its operations.

André F. Scott
Chairperson

SECTION I—TRIBUNAL OVERVIEW

Raison d'être

The purpose of the Tribunal is to support the economic objectives of the Government of Canada by contributing to the existence of a fair, accessible and transparent trade and procurement regime in Canada.

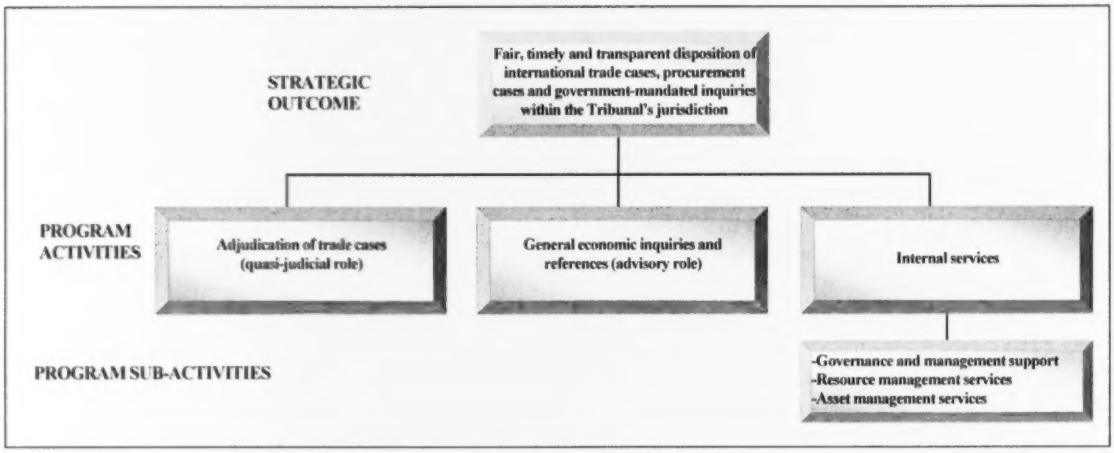
Responsibilities

The Tribunal was established in December 1988 under the *Canadian International Trade Tribunal Act* (*CITT Act*). It acts as an independent, investigative and quasi-judicial decision-making body that reports to Parliament through the Minister of Finance. The Tribunal also derives authority from the *Special Import Measures Act* (*SIMA*), the *Customs Act* and the *Excise Tax Act*. The Tribunal operates in one central location in Ottawa, Ontario.

Under *SIMA*, the Tribunal conducts inquiries into whether dumped and/or subsidized imports have injured Canadian manufacturers. Pursuant to the *Customs Act*, the *Excise Tax Act* and *SIMA*, the Tribunal is empowered to deal with appeals from decisions of the Minister of National Revenue and the Canada Border Services Agency (CBSA) on various excise and customs matters. With the implementation of the *North American Free Trade Agreement* (*NAFTA*), the Tribunal's mandate was expanded to include reviewing bid challenges on federal government procurement matters. The Tribunal has also been designated as the bid challenge authority under the *Agreement on Internal Trade* and the World Trade Organization (WTO) *Agreement on Government Procurement*. Under the *CITT Act*, the Tribunal inquires into and provides advice on such economic, trade, commercial and tariff issues as are referred to the Tribunal by the Governor in Council or the Minister of Finance. It also undertakes safeguard inquiries under the *CITT Act* and is empowered, on complaint by an interested party or as directed by the Government, to carry out safeguard inquiries into rapid increases in foreign imports (including through special procedures for imports specifically from the People's Republic of China) and to formulate recommendations to the Government for dealing with such imports.

Strategic Outcome and Program Activity Architecture

The chart bellow illustrates the Tribunal's complete framework of program activities and program sub-activities.


STRATEGIC OUTCOME
Fair, timely and transparent disposition of international trade cases, procurement cases and government-mandated inquiries within the Tribunal's jurisdiction
PROGRAM ACTIVITIES
Adjudication of trade cases (quasi-judicial role)
General economic inquiries and references (advisory role)
Internal services
PROGRAM SUB-ACTIVITIES
-Governance and management support
-Resource management services
-Asset management services

Planning Summary

Financial Resources ($ thousands)

2009-2010	2010-2011	2011-2012
9,530	9,530	9,530

Human Resources (Full-time Equivalents [FTEs])

2009-2010	2010-2011	2011-2012
77	77	77

Strategic Outcome 1

Fair, timely and transparent disposition of international trade cases, procurement cases and government-mandated inquiries within the Tribunal's jurisdiction.

Performance Indicators	Targets
Tribunal decisions overturned by the Federal Court of Appeal or international appeal bodies	Less than 2 percent of all decisions rendered are overturned by the Federal Court of Appeal or international appeal bodies.
Soundness of the Tribunal's decisions—Overturned decisions with "due process"	Less than 1 percent of all decisions rendered are overturned by the Federal Court of Appeal or international appeal bodies on judicial review dealing specifically with "due process".

Performance Indicators	Targets
Tribunal notices, decisions and guidelines are accessible to the public.	All notices, decisions and guidelines for all areas of its mandate and practice notices are accessible to the public through the Tribunal's Web site, the *Canada Gazette* and/or MERX (Canada's electronic tendering system).
Decisions are issued within statutory deadlines.	All decisions are issued within the statutory deadlines.
Appeal decisions are issued within internal deadlines.	Seventy percent of decisions on appeals are issued within internal deadlines.
Recommendations meet the terms of reference and provide requested information.	All recommendations and reports meet the terms of reference and provide requested information.
Reports, determinations and recommendations are published within Government-mandated deadlines.	All reports and recommendations to the Government or the Minister of Finance are published within the statutory deadlines.

Financial Resources by Program Activity ($ thousands)

Program Activity[1]	Forecast Spending 2008-2009	Planned Spending			Alignment to Government of Canada Outcomes
		2009-2010	2010-2011	2011-2012	
Adjudication of Trade Cases (quasi-judicial role)	6,103	6,071	6,071	6,071	Fair and secure marketplace
General Economic Inquiries and References (advisory role)	97	88	88	88	Fair and secure marketplace
Internal Services	3,488	3,371	3,371	3,371	
Total	**9,688**	**9,530**	**9,530**	**9,530**	

1. For program activity descriptions, please access the Main Estimates online at http://www.tbs-sct.gc.ca/est-pre/estime.asp.

Contribution of the Tribunal's Priorities to its Strategic Outcome

Operational Priorities	Type	Link to Strategic Outcome	Description
Process Cases Within Legislative Deadlines and Maintain Quality Standards	Ongoing	Strategic Outcome 1	The primary objective is to ensure that statutory deadlines are met and that the quality of the Tribunal's findings, determinations and recommendations is not compromised, particularly during peaks in workload. To accomplish this, the Tribunal will focus on effective workforce planning, which includes selecting and prioritizing initiatives that will optimize resources and operational efficiencies.
Improve Service Delivery	Ongoing	Strategic Outcome 1	Continuous improvement in service delivery remains a priority for the Tribunal. The focus will be on process improvement and ensuring the continuity of Information Technology (IT) services, both for internal users and for outside parties and their counsel. In its effort to optimize resources and operational efficiencies, the Tribunal will continue to review and streamline its processes for appeal cases and, in cooperation with the CBSA, for expiry reviews. It will also continue to develop an IT Strategy, an IT Architecture Plan and the ToolKit system (electronic compilation of the administrative record).

Management Priorities	Type	Link to Strategic Outcome	Description
Invest in Its People	Ongoing	Strategic Outcome 1	To meet its challenges, the Tribunal has adopted a human resources strategy that incorporates the recruitment, the development and the retention of its expert staff. This comprehensive approach will focus on professional development, in-house training material, succession planning and continuous learning to keep its employees' skills current. The Tribunal relies on the strength of its employees to maintain its tradition of excellence. In order to attract and retain a diverse and skilled workforce, it bases its human resources strategy on encouraging learning and skills development on the part of all employees.
Sound Management Practices	Ongoing	Strategic Outcome 1	Promoting transparency and supporting overall government-wide management accountability priorities, including the Management Accountability Framework (MAF) and the commitments introduced under the new *Federal Accountability Act*, continue to be priorities for the Tribunal. The plans under these priorities include the development of a more-integrated system to track all case work and to improve and streamline case management and workflow. The Tribunal will maintain its risk-based audit plan and will address areas of highest risk and significance. It will also address any areas of concern resulting from its MAF assessment. The Tribunal will also be implementing a workshop on values and ethics for all its employees.

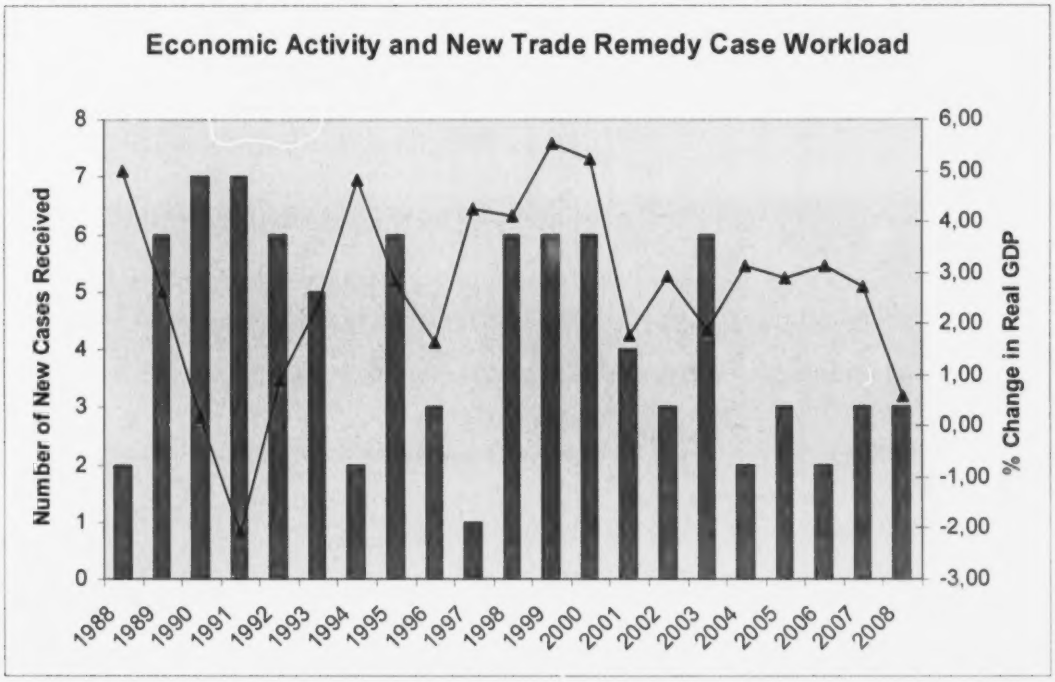
Risk Analysis

Operating Environment

Looking ahead to 2009-2010, a number of external factors are expected to affect the number and mix of cases before the Tribunal. These factors relate to the state of the world and Canadian economies, the trade environment and government actions.

Currently, there are three major challenges facing the Canadian economy and the trade environment. First, the ongoing situation in global financial markets has resulted in a significant loss of wealth and much tighter credit conditions, adversely affecting investment and profits. Second, the economic slowdown in the United States and other key economies has dampened demand and sharply reduced prices for Canadian exports, slowing profits and income growth in Canada. Third, the current slowing and likely contraction of the Canadian economy in 2009 is intensifying competition in the domestic market between domestically produced goods and imports.

While the outcome of the current economic situation is uncertain, it seems likely that it will lead to an increase in trade remedy cases. During the recession in the early 1990s, the Tribunal experienced a doubling in the number of new trade remedy complaints, and the increased caseload was sustained for a couple of years beyond the downturn (see Figure 1). Although Canada avoided a recession during the economic downturns in 1995-96 and 2000-2001, the number of new trade remedy cases in the two periods either increased from previous levels or remained relatively high. In light of the current and foreseeable financial and economic situation and the caseload experienced during similar events in the past, the Tribunal is forecasting a significant and sustained increase in the intake of new cases for 2009-2010 and beyond.



On the international stage, the Tribunal will continue to provide expert advice to the Government in support of the Doha Development Round of negotiations in Geneva, Switzerland, the current trade-negotiation round of the WTO.

As in recent years, government-wide initiatives focussed on accountability and transparency in general and procurement in particular have raised awareness among potential bidders about their rights and the possibility of redress at the Tribunal. Communications initiatives of the Procurement Ombudsman may bring about even more awareness about the rights of bidders and generate even more complaints. Looking forward, the number of procurement cases will likely be higher, as will complaints accepted for inquiry. Additional resources were allocated to this activity in the past couple of years.

The Tribunal supports the government-wide initiatives on accountability and transparency. As a small agency, it has sought innovative and efficient ways to deliver fully on these initiatives. The Tribunal has, for example, partnered with other small agencies in the Human Resources Co-op to help meet human resources initiatives, created special in-house teams to respond to planning and review initiatives and engaged outside experts on a temporary basis to provide advice on risk management and to conduct financial and business-process audits. The Tribunal expects to continue to expend significant effort participating in these initiatives in the year ahead.

The Tribunal foresees no significant shift in the number of appeals and textile reference cases in 2009-2010 compared to recent years.

With all the above factors taken into consideration, the Tribunal believes that the overall workload will increase substantially in the coming years. Increased activity in trade remedy cases is of a particular concern. The trade remedies program administered by the Tribunal is designed to protect Canadian businesses and their employees from the injurious effects of unfairly traded imports, in line with Canada's international rights and obligations. However, they are highly resource-intensive activities for the Tribunal. Since the stakes are high for the Canadian economy, international trade agreements and Canadian law impose an obligation upon the Tribunal to inquire deeply into the matters at issue, demanding extensive research and the best available analysis to support informed decision making. The Tribunal is currently reviewing its operating procedures for these cases with the hope of finding more economies and efficiencies.

Challenges and Key Risks

The Tribunal faces risks and challenges that could impact on the organization's ability to achieve its mandate. As part of the planning process, a risk assessment is conducted, therefore, managers are aware of these risks and challenges. They are expected to take appropriate action to mitigate the risks while ensuring the delivery of the Tribunal's mandate. Risks and related strategies are also discussed at regular Executive Committee meetings.

In delivering on its mandate, the Tribunal faces several key human resources and IT challenges in the coming year. The Tribunal is addressing these challenges as management priorities.

Over the course of an in-depth strategic review conducted with the Treasury Board last year, the Tribunal identified potential savings from the better alignment of resources to workload and efficiency gains. The Tribunal's operational funding was reduced in line with the proposed savings. In response, the Tribunal has been transitioning to a new business model in order to adjust to a reduced workforce. However, recent unanticipated events in financial markets and the expectation of a deep and prolonged downturn in the global, U.S. and Canadian economies have since required the Tribunal to revise its estimated caseload upward for 2009-2010 and beyond. This higher-than-expected caseload is likely to place additional pressures on the Tribunal to deliver on its trade remedies and other mandates. The following are the three key risks identified in the 2009-2010 planning session.

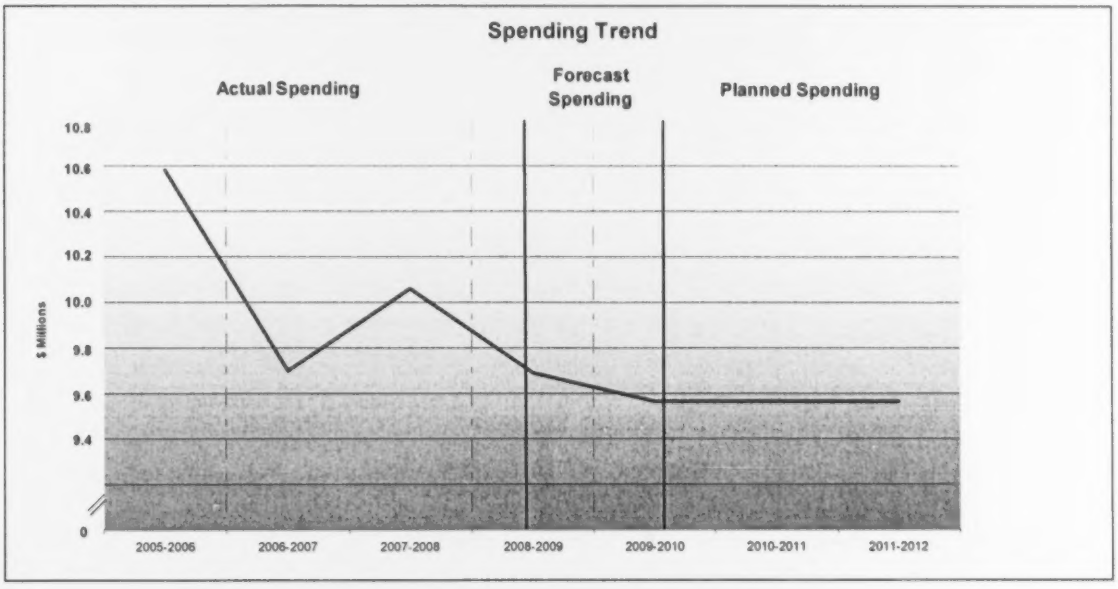
1. **Maintaining the Quality of Decisions and Meeting Legislative Timelines With a Reduced Workforce:** To continue to effectively deliver on its mandate and provide quality services with a reduced workforce, the Tribunal will be focussing on strategies to improve case processes and will invest in its people. However, due to the depth of the economic downturn and expected caseload increase, the Tribunal will also have to monitor closely its level of resources. Flexibility, innovation and particular attention to human resources planning, business planning and priority setting will be required. The Tribunal needs to ensure that the right level of resources, mix of people, processes and technology are in place to support sound decision making, while meeting legislative timelines.
2. **Maintaining the Quality of Decisions and Meeting Legislative Timelines in Peak Periods:** A number of factors impact on the Tribunal's ability to act in a responsive manner. First, workload is externally driven, and the Tribunal has no ability to affect the volume of its intake of cases. Secondly, there is uncertainty in predicting the size and complexity of the workload. Unpredictable case demands and case bunching may continue to be challenges. There has also been a change in the number and mix of cases before the Tribunal. An underlying concern is that a higher-than-expected caseload, or a sudden increase in the number of cases, could affect the Tribunal's ability to process cases within prescribed deadlines.
3. **Knowledge Transfer:** The Tribunal's work requires specialized skills and knowledge, which are acquired over a number of years from training and experience, and includes key elements, such as judgment, values and insights. Knowledge of this type is not easily replaced. The challenge to replace highly specialized employees is made more difficult by a tight labour market and stiff competition from the private sector. The Tribunal is also expecting a number of possible departures due to retirements over the next five years. As the Tribunal is a small organization, the impact of staff turnover can be significant and create challenges in terms of resources. Maintaining continuity of the Tribunal's corporate knowledge requires a sustained focus on training and development, recruitment, retention and succession planning. Trainees and junior staff require timely access to orientation and training programs to expedite the knowledge transfer process.

Expenditure Profile

Planned and Actual Spending ($ thousands)

	Actual Spending 2005-2006	Actual Spending 2006-2007	Actual Spending 2007-2008	Forecast Spending 2008-2009	Planned Spending 2009-2010	Planned Spending 2010-2011	Planned Spending 2011-2012
Net Cost of Program	10,581	9,700	10,061	9,688	9,530	9,530	9,530

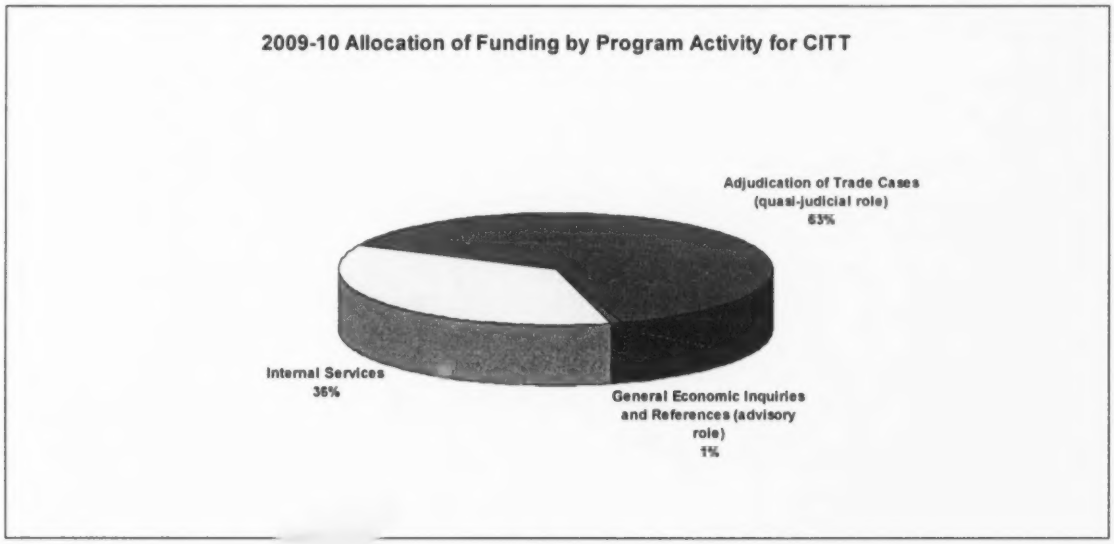
For the 2005-2006 to 2008-2009 periods, total spending includes all parliamentary appropriation: Main Estimates, Supplementary Estimates and Treasury Board Vote 15, and carry-forward adjustments. For the 2009-2010 to 2011-2012 periods, total spending corresponds to planned spending. Supplementary funding and carry-forward adjustments are unknown at this point and are therefore not reflected. Below is a graph showing the spending trend since 2005-2006.



The fluctuations in spending and planned spending since 2005-2006 can be explained by the three following events:

- In 2005-2006, the Tribunal worked on two major economic, trade and tariff references in addition to its normal caseload.
- In 2007-2008, the Tribunal replaced its aging hearing room audio system for a total actual cost of nearly $340,000.
- Starting in 2008-2009, the Tribunal's budget has been reduced by $700,000 to $9.5 million as a result of the 2007 Strategic Review.

The figure below displays the percentage allocation of the Tribunal's funding by program activity for 2009-2010.


2009-10 Allocation of Funding by Program Activity for CITT
Adjudication of Trade Cases (quasi-judicial role) 63%
Internal Services 36%
General Economic Inquiries and References (advisory role) 1%

Voted and Statutory Items Listed in Main Estimates

($ thousands)

Vote or Statutory Item	Truncated Vote or Statutory Wording	2009-2010 Main Estimates	2008-2009 Main Estimates*
20	Program Expenditures	8,379	8,984
(S)	Contributions to Employee Benefit Plans	1,151	1,168
	Total Tribunal	9,530	10,152

* Note: The Tribunal's budget was reduced by $700,000 as part of the 2007 Strategic Review. Although the budget reduction was in effect at the beginning of 2008-2009, it will not be officially reflected in the budget until the Supplementary Estimates (C) are tabled in early 2009.

SECTION II—ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

Strategic Outcome

Fair, timely and transparent disposition of international trade cases, procurement cases and government-mandated inquiries within the Tribunal's jurisdiction.

The following section describes the Tribunal's program activities and identifies the expected result, performance indicators and targets for each of them. This section also explains how the Tribunal plans on meeting the expected results and presents the financial and non-financial resources that will be dedicated to each program activity.

This section will contain a discussion of plans surrounding the following program activities:

- Adjudication of Trade Cases (quasi-judicial role)
- General Economic Inquiries and References (advisory role)
- Internal Services

Activity No. 1—Adjudication of Trade Cases (quasi-judicial role)

Human Resources (FTEs) and Planned Spending ($ thousands)					
2009-2010		2010-2011		2011-2012	
FTEs	Planned Spending	FTEs	Planned Spending	FTEs	Planned Spending
52	6,071	52	6,071	52	6,071

Program Activity Expected Results	Performance Indicators	Targets
Tribunal decisions are fair, impartial and based on quality information.	Tribunal decisions are overturned by the following national and international appeal bodies: • Federal Court of Appeal • Binational panels under *NAFTA* • Dispute settlement body, WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* • Federal Court	Less than 2 percent of all Tribunal decisions rendered will be overturned.
	Soundness of the Tribunal's decisions under judicial review that are overturned by the Federal Court of Appeal and/or international appeal bodies based on "due process" not being followed.	Less than 1 percent of all decisions on due process will be overturned.
	Tribunal notices, decisions and guidelines for all areas of its mandate and practice notices are accessible to the public.	All notices, practice notices, decisions and guidelines for all areas of the Tribunal's mandate are accessible to the public.
	Decisions are issued within statutory deadlines. The Tribunal's decisions regarding dumping and/or subsidizing, safeguard inquiries and procurement complaints are subject to statutory deadlines.	All decisions are issued within the legislated deadline.
	Appeal decisions are issued within internal deadlines. There is no statutory deadline imposed for appeals of decisions of the CBSA and Minister of National Revenue. However, the Tribunal has adopted an informal, voluntary standard of issuing such decisions within 120 days of the hearing of an appeal.	70 percent of internal deadlines are met.

Activity No. 2—General Economic Inquiries and References (advisory role)

Human Resources (FTEs) and Planned Spending ($ thousands)					
2009-2010		2010-2011		2011-2012	
FTEs	Planned Spending	FTEs	Planned Spending	FTEs	Planned Spending
1	88	1	88	1	88

Program Activity Expected Results	Performance Indicators	Targets
Tribunal recommendations on economic, trade, tariff matters and the standing textile reference are fair, impartial and based on quality information.	Recommendations meet the terms of reference and provide requested information. An indicator of the soundness of the Tribunal's decisions is the number of requests for additional information from the Minister of Finance.	All recommendations meet the terms of reference.
	Reports, decisions and recommendations are published within government-mandated deadlines. The Tribunal's recommendations regarding the tariff reference and economic inquiries are subject to government-mandated deadlines. The Tribunal has implemented strong case management controls to ensure that it is able to meet these deadlines and does extensive tracking of the status of cases.	All recommendations are published within statutory deadlines.

Activity No. 3—Internal Services Program Activity

Human Resources (FTEs) and Planned Spending ($ thousands)					
2009-2010		2010-2011		2011-2012	
FTEs	Planned Spending	FTEs	Planned Spending	FTEs	Planned Spending
24	3,371	24	3,371	24	3,371

Program Activity Summary and Planning Highlights

Government-wide priorities on accountability and transparency have strengthened the application of the Government's reporting principles and heightened the requirement for good planning and credible performance information. With this comes a new approach to managing overall spending that demands more rigorous management practices and broadens the roles and responsibilities of management.

Based on current resources, the Tribunal anticipates some challenges in meeting these essential management expectations in terms of finding the right balance between the level of oversight required and the ability to deliver on its mandate.

The Tribunal's planning highlights include:

- emphasis on training and skill development through the creation of an employee learning plan;
- implementing the recommendations of the 2008-2009 MAF to improve the Tribunal's governance, processes and service delivery; and
- implementing the recommendations of the 2009-2014 internal audit plan.

The highlights of the Internal Services program activity can be linked to the Tribunal's management priorities, which include sound management and investing in its people.

Planning Highlights

In order to achieve the expected result, the Tribunal plans to undertake the following activities.

Due to the economic conditions in Canada and around the world, the Tribunal expects, in 2009-20 , to have an increase in the number of cases that it normally receives. Therefore, it will take every reasonable measure to prioritize its resources to meet the demand. Moreover, it is reviewing its processes and procedures to ensure that they are as efficient as possible. Depending on the length and depth of the current economic downturn, the Tribunal may face additional resource pressures as it attempts to continue to deliver sound decisions within legislative timelines.

The Tribunal is also committed to offering to all its employees training and development opportunities that will support the Tribunal's priority of investing in its people by encouraging learning and skills development on the part of all employees.

Sound management practices will be further reinforced through the integration of the MAF into the Tribunal's day-to-day management, including the implementation of any recommendations of the MAF 2008-2009 final report. In addition, the Tribunal will develop a more-integrated system to track all case work and streamline case management and workflow.

Lastly, the Tribunal will continue to review and streamline its processes for appeals and expiry review cases. The Tribunal will also continue to develop an IT Strategy, an IT Architecture Plan and the ToolKit system.

Benefits to Canadians

- Access to fair and efficient processes for investigating complaints of injury caused by unfairly traded imports, complaints on designated federal government procurements and appeals on customs and excise matters
- Reliable economic and trade analysis and advice for the Government
- Through the above, a favourable environment for a fair and secure trading system for individual Canadians and the Canadian business sector

SECTION III—SUPPLEMENTARY INFORMATION

Contact for Further Information and Web Site

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E-mail:	secretary@citt-tcce.gc.ca
Tribunal's Web site:	http://www.citt-tcce.gc.ca

Legislation Governing the Work of the Canadian International Trade Tribunal

Canadian International Trade Tribunal Act	R.S.C. 1985 (4th Supp.), c. 47
Customs Act	R.S.C. 1985 (2d Supp.), c. 1
Excise Tax Act	R.S.C. 1985, c. E-15
Special Import Measures Act	R.S.C. 1985, c. S-15
Energy Administration Act	R.S.C. 1985, c. E-6
Canadian International Trade Tribunal Regulations	S.O.R./89-35
Canadian International Trade Tribunal Procurement Inquiry Regulations	S.O.R./93-602
Canadian International Trade Tribunal Rules	S.O.R./91-499

Tribunal Publications

For a complete list of Tribunal publications, please see the Tribunal's Web site at http://www.citt-tcce.gc.ca/publicat/index_e.asp